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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

BO HUANG,	)	No. C 04-4377 RS
	)	
Plaintiff,	)	STIPULATION OF SETTLEMENT AND
	)	DISMISSAL; <del>[PROPOSED]</del> ORDER
v.	)	
	)	
TOM RIDGE, Secretary of Department of	)	
Homeland Security, et al.,	)	
	)	
Defendants.	)	

1. Mr. Huang has filed a mandamus action seeking action from defendants on I-730 petitions that he filed on behalf of his wife and his son (referred to collectively as the “beneficiaries”). The I-730 petitions had been approved and forwarded to the Department of Homeland Security in Beijing, but Mr. Huang believed nothing further had been done to complete the steps necessary for his wife and son to obtain visas.

2. Defendants researched this matter and discovered that DHS-Beijing sent interview notices to the beneficiaries at the address provided by Mr. Huang on the I-730 petitions. The notices required the beneficiaries to appear for interviews on September 9, 2003. The notice was not returned as undeliverable, but the beneficiaries failed to appear for the interviews. DHS-Beijing waited several months, hoping that petitioner or the beneficiaries would contact the

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1 office with new address information, but they received no contact. As a result, DHS-Beijing  
 2 returned the I-730 petitions to the U.S. Citizenship & Immigration Services' Nebraska Service  
 3 Center ("NSC") on or about April 2, 2004. The NSC sent the petitions to the National Record  
 4 Center on or about August 19, 2004.

5 3. Since it appears that, through no fault of U.S. Citizenship & Immigration Services  
 6 ("CIS"), beneficiaries never received the interview notice, the parties have agreed to resolve this  
 7 matter as follows. Plaintiff and his counsel will submit to defense counsel an executed G-28 (so  
 8 that U.S. Citizenship & Immigration Services has Mr. Wang listed as counsel of record for  
 9 plaintiff with respect to the I-730 petitions) and a current address for the beneficiaries written in  
 10 both English and Chinese characters. Defense counsel will forward both items to the NSC. The  
 11 staff at the NSC will forward the petitions with the new address information to DHS-Beijing,  
 12 which will process them and schedule the beneficiaries for an interview in accordance with the  
 13 customary procedures of that office.

14 4. Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, and the terms of this  
 15 settlement agreement, the parties hereby stipulate to dismissal of this action without prejudice.  
 16 Each party shall bear his/its own attorney's fees and costs.

17  
 18 DATED: December 15, 2004

Respectfully submitted,

19 KEVIN V. RYAN  
 20 United States Attorney

21 /s/ Alison E. Daw  
 22 ALISON E. DAW  
 23 Assistant United States Attorney

24 DATED: December 15, 2004

Respectfully submitted,

25 BAUGHMAN & WANG

26 /s/ Justin X. Wang  
 27 JUSTIN X. WANG  
 28 Attorneys for Plaintiff

**ORDER**

Pursuant to the stipulation of the parties, IT IS SO ORDERED.

December 15, 2004

DATED: \_\_\_\_\_

/s/ Richard Seeborg

\_\_\_\_\_  
RICHARD SEEBORG  
United States Magistrate Judge